

GIPSON HOFFMAN & PANCIONE  
A Professional Corporation  
GREGORY A. FAYER (State Bar No. 232303)  
GFayer@ghplaw.com  
ELLIOT B. GIPSON (State Bar No. 234020)  
EGipson@ghplaw.com  
1901 Avenue of the Stars, Suite 1100  
Los Angeles, California 90067-6002  
Telephone: (310) 556-4660  
Facsimile: (310) 556-8945

Attorneys for Plaintiff  
CYBERSitter, LLC d/b/a Solid Oak Software

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

CYBERSitter, LLC, a California limited  
liability company, d/b/a Solid Oak Software,

Plaintiff,

v.

The People's Republic of China, a foreign  
state; Zhengzhou Jinhui Computer System  
Engineering Ltd., a Chinese corporation;  
Beijing Dazheng Human Language  
Technology Academy Ltd., a Chinese  
corporation; Sony Corporation, a Japanese  
corporation; Lenovo Group Limited, a  
Chinese corporation; Toshiba Corporation, a  
Japanese corporation; ACER Incorporated, a  
Taiwanese corporation; ASUSTeK  
Computer Inc., a Taiwanese corporation;  
BenQ Corporation, a Taiwanese  
corporation; Haier Group Corporation, a  
Chinese corporation; and DOES 1-10,  
inclusive,

Defendants.

CASE NO. CV10-0038 GAF (SHx)

**DECLARATION OF GREGORY A.  
FAYER IN SUPPORT OF *EX PARTE*  
APPLICATION FOR LETTERS  
ROGATORY TO EFFECT SERVICE  
OF PROCESS**

Judge: Hon. Gary A. Feess  
Ctm: 740

Hearing Date: None scheduled  
Hearing Time: None scheduled

Discovery Cutoff: None set  
Pretrial Conference: None set  
Trial Date: None set

[Filed concurrently with: Notice of *Ex  
Parte* Application; Memorandum of  
Points and Authorities; Letters Rogatory;  
[Proposed] Order]

**DECLARATION OF GREGORY A. FAYER**

I, Gregory A. Fayer, declare as follows:

1. I am a member in good standing of the bar of the State of California and I have been admitted to practice in this Court. I am an attorney at the law firm of Gipson Hoffman & Pancione, counsel of record for plaintiff CYBERSitter LLC d/b/a Solid Oak Software ("CYBERSitter"). Except as otherwise stated, I have personal knowledge of the facts set forth herein, and, if called upon as a witness, I could and would competently testify thereto.

2. On January 14, 2010, I sent letters to Defendants ACER Incorporated, ASUSTeK Computer Inc. and BenQ Corporation (collectively, "Taiwanese Defendants"), and to ASUSTeK and BenQ's U.S. affiliates, requesting arrangement for voluntary service of process.

3. Attached hereto as **Exhibit A** is a true and correct copy of my January 14, 2010 letter to Mr. Lin at ACER Incorporated, sent by email and first class mail.

4. Attached hereto as **Exhibit B** is a true and correct copy of my January 14, 2010 letter to ASUSTeK Computer Inc., sent by first class mail.

5. Attached hereto as **Exhibit C** is a true and correct copy of my January 14, 2010 letter to Asus Computer International, ASUSTeK Computer Inc.'s U.S. affiliate, sent by first class mail.

6. Attached hereto as **Exhibit D** is a true and correct copy of my January 14, 2010 letter to Mr. Young at BenQ Corporation, sent by facsimile and first class mail.

7. Attached hereto as **Exhibit E** is a true and correct copy of my January 14, 2010 letter to Ms. Hsu at BenQ America Corp., BenQ Corporation's U.S. affiliate, sent by facsimile and first class mail.

8. On January 20, I received an email from Ms. Hsu at BenQ America Corp. attaching a letter (dated January 18, 2010) stating that counsel would not accept

1 voluntary service on behalf of BenQ Corporation. Attached hereto as **Exhibit F** is a  
2 true and correct copy Ms. Hsu's email and attached letter.

3 9. As of the signing of this declaration, I have not received a response from  
4 any of the other Taiwanese Defendants or their affiliates to my January 14 letters.

5 10. Also on January 14, 2010, I sent letters to defendants Sony Corporation  
6 (via its outside U.S. counsel who has contacted me previously regarding this matter),  
7 Lenovo Group Limited (via its U.S. in-house counsel who has contacted me  
8 previously regarding this matter), Toshiba Corporation (via its U.S. in-house counsel  
9 who has contacted me previously regarding this matter), and Haier Group Corporation  
10 (via its Chinese in-house counsel who has contacted me previously regarding this  
11 matter), requesting that they make arrangements to voluntarily accept service of the  
12 summons and complaint. Counsel for Sony, Lenovo, and Toshiba declined to accept  
13 service. Counsel for Haier has not yet responded to my request.

14 11. On January 22, 2010, Plaintiff initiated service pursuant to the provisions  
15 of the Hague Service Convention on defendants Lenovo Group Limited, Haier Group  
16 Corporation, Zhengzhou Jinhui Computer System Engineering Ltd. and Beijing  
17 Dazheng Human Language Technology Academy Ltd. Plaintiff is in the process of  
18 initiating service pursuant to the provisions of the Hague Service Convention on  
19 defendants Sony Corporation and Toshiba Corporation.

20 12. On January 12, 2010, I sent a letter by facsimile to defendant People's  
21 Republic of China ("PRC"), through the offices of the Ministry of Industry and  
22 Information Technology, requesting that the PRC make arrangement for voluntary  
23 service as provided for under the Foreign Sovereign Immunities Act, 28 U.S.C. §  
24 1608(a)(1). Defendant PRC has not responded to this request. Accordingly, Plaintiff  
25 is in the process of initiating service on defendant PRC pursuant to the provisions of  
26 the Hague Service Convention, as provided for under the Foreign Sovereign  
27 Immunities Act, 28 U.S.C. § 1608(a)(2).  
28

1           13. On the afternoon of Wednesday, January 20, 2010, I sent letters by email,  
2 facsimile or both (and also by first class mail) to the each of the Taiwanese  
3 Defendants and to ASUSTeK and BenQ's U.S. affiliates, notifying them of Plaintiff's  
4 intent to bring this *ex parte* application and requesting that they inform me whether  
5 they intend to oppose the application. Since none of the Taiwanese Defendants in this  
6 action has yet been served, none has counsel of record to which to give notice.  
7 Accordingly, I contacted them in the most expedient manner reasonably available.  
8 Aside from the reference to the notice letter in the above-referenced email from in-  
9 house counsel at BenQ's U.S. affiliate (*see* paragraph 8 and Exhibit F above), none of  
10 the Taiwanese Defendants responded to my notice letter. I am thus uncertain whether  
11 the Taiwanese Defendants oppose the application and, if so, what grounds they might  
12 have for opposing the application.

13           14. Attached hereto as **Exhibit G** is a true and correct copy of my January  
14 20, 2010 letter and successful fax report to Mr. Lin at ACER Incorporated, sent by  
15 email and facsimile.

16           15. Attached hereto as **Exhibit H** is a true and correct copy of my January  
17 20, 2010 letter and successful fax report to ASUSTeK Computer Inc., sent by  
18 facsimile and first class mail.

19           16. Attached hereto as **Exhibit I** is a true and correct copy of my January 20,  
20 2010 letter and successful fax report to Asus Computer International, ASUSTeK  
21 Computer Inc.'s U.S. affiliate, sent by facsimile and first class mail.

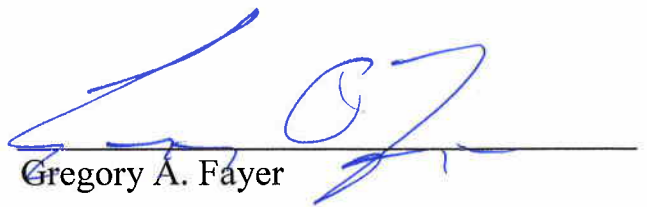
22           17. Attached hereto as **Exhibit J** is a true and correct copy of my January 20,  
23 2010 letter and successful fax report to Mr. Young at BenQ Corporation, sent by  
24 facsimile and first class mail. My assistant, Marsha Tylke, attempted to fax the letter  
25 twice on the evening of January 20, but these attempts were unsuccessful. As the fax  
26 report indicates, the fax was successfully sent at 11:04 a.m. on January 21.

1 18. Attached hereto as **Exhibit K** is a true and correct copy of my January  
2 20, 2010 letter and successful fax report to Ms. Hsu at BenQ America Corp., BenQ  
3 Corporation's U.S. affiliate, sent by facsimile and first class mail.

4 19. With respect to the defendants in this action other than the Taiwanese  
5 Defendants (all of whom are foreign entities), none of them has yet been served, and  
6 none has counsel of record to contact for notice purposes. In my opinion, absent  
7 counsel of record to contact for notice purposes, it would be both unduly expensive  
8 for my client and futile to attempt to contact the non-Taiwanese overseas defendants  
9 regarding the issuance of Letters Rogatory to the Taiwanese Defendants.

10 Executed January 22, 2010, at Los Angeles, California.

11 I declare under penalty of perjury under the laws of the State of California that  
12 the foregoing is true and correct.

13  
14   
Gregory A. Fayer